

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION**

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

2006 MAY 26 PM 3: 57

CLERK *L. J. J. J.*
SO. DIST. OF GA.

BILLY GUYTON, SR.,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CIVIL ACTION NO.: CV205-233

(Case No.: CR297-026)

ORDER

After an independent review of the record, the Court concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. In his Objections, Guyton contends that Respondent's Motion to Dismiss should be stricken from the record because he was not served with a copy of the Motion. However, the record before the Court reflects that Guyton filed a response to Respondent's Motion to Dismiss. (Doc. No. 7.) If Guyton was not served with a copy of Respondent's Motion, as he contends, he would not have filed a Response. Guyton also contends that the Motion to Dismiss was not filed within thirty (30) days, in violation of this Court's Order, and should be stricken for that reason. The Court's Order directing Respondent to file a response to Guyton's motion was filed on December 12, 2005, and Respondent filed his Motion to Dismiss on January 10, 2006, which was within the allotted thirty (30) day period. (Doc. Nos. 5 and 6.) Guyton further contends that the Government created an impediment which

prevented him from filing a timely motion pursuant to 28 U.S.C. § 2255, ¶6(2). However, Guyton presents this contention in a conclusory manner and does not inform the Court as to what that impediment is.

Guyton's Objections are wholly without merit. The Report and Recommendation of the Magistrate Judge is adopted as the opinion of the Court. Respondent's Motion to Dismiss (Doc. No. 6) is **GRANTED**. Guyton's motion to vacate, set aside, or correct his sentence, filed pursuant to 28 U.S.C. § 2255, is **DISMISSED**. The Clerk is authorized and directed to enter the appropriate Judgment of Dismissal.

SO ORDERED, this 26th day of May, 2006.


UNITED STATES DISTRICT JUDGE